THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9479 of 1997

Dated:08.3.2007

Between
S.A.K.Mynoddin

.....Petitioner

and

1.The Additional Industrial Tribunal
cum Additional Labour Court, Hyderabad and
others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9479 of 1997

ORDER:

This writ petition is filed being aggrieved by the Award made in I.D.No.66 of 1990 dated 8.6.1994 on the file of the Additional Industrial Tribunal cum Additional Labour Court, Hyderabad.

It appears that the petitioner was conductor in APSRTC and was attached to the Ranigunj bus depot. While he was conducting the bus on 25.7.1987 on route No.2, a check was exercised and certain cash and ticket irregularities were noticed by the checking officials and a charge memo was issued to the petitioner. After conducting a detailed enquiry as per law, the petitioner was removed from service *vide* orders dated 23.8.1988.

Aggrieved by the same, the petitioner raised an industrial dispute under Section 2-A (2) of the Industrial Disputes Act.

It is the contention of the petitioner that the enquiry was not properly conducted and he was not given fair and proper opportunity to defend himself.

The respondent-management filed a rejoinder before the Labour Court denying the allegations made by the petitioner.

The Labour Court after consideration of the entire material placed before it, came to the conclusion that the petitioner's conduct in endorsing that all the charges are wrong when he was asked to write his spot explanation that there are 85 passengers in the bus and the checking officials wrongly mentioned that there were only 42 passengers and rounding off the figures noted by them and writing his own figure. The refusal to sign on the deposition of one of the checking officials recorded by the STI in the preliminary enquiry cannot also be a

misconduct. In fact, the delinquent need not sign on a deposition. The Enquiry Officer takes the signatures to save themselves from future comment. The petitioner over acted in the situation by taking the bus to the police station and asking the police officials to record a statement from the passenger in question. His conduct very much infuriated the checking officials as well as the depot manager. However, taking a lenient view of the matter, the Labour Court directed reinstatement of the petitioner into service by imposing a minor punishment. It was noticed by the Labour Court that the petitioner enrolled himself as an advocate and he is no more interested in reinstatement and he is only interested in getting back wages. Under those circumstances, while holding that the punishment of removal from service is excessive and disproportionate to the gravity of the misconduct, the respondent-Management was directed to pay

compensation of Rs.5,000/- to the petitioner in lieu of reinstatement. Aggrieved by the same, the petitioner filed the present writ petition seeking back wages for the period he was kept out of employment.

It appears that the petitioner was enrolled as an advocate in the year 1990 (4.9.1990) and the award was passed on 8.6.1994. Therefore, he seeks back wages from the date of his removal i.e., 23.8.1988 to 3.9.1990. This is not a case where the Labour Court has absolved the petitioner of the charges. The Labour Court on the other hand took a lenient view of the matter and further felt that the conduct of the petitioner in not signing during the course of enquiry cannot be said to be a misconduct. While exercising powers under Section 11-A of the Act the Labour Court awarded a compensation of Rs.5,000/- in lieu of reinstatement since by that time, the petitioner enrolled himself as an advocate and practicing before this Court.

Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is accordingly dismissed. No costs.

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08-03-2007

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